

HOUSE BILL 2892

By Russell

AN ACT to amend Tennessee Code Annotated, Title 4; Title 7; Title 11; Section 39-14-306; Section 57-4-102; Title 59; Title 62; Title 66; Title 68; Title 69 and Title 70, relative to the time within which the department of environment and conservation performs certain functions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-3-506, is amended by deleting the section and substituting the following:

(a)

(1) It is the intent of the general assembly that the department of environment and conservation seek to accomplish making a completeness determination on any application for a permit within the time frames specified by the department's rules and regulations.

(2)

(A) Once an applicant submits a complete permit application to the department, the department shall, within thirty (30) days of receipt of the complete application, unless a shorter period is required by another law or rule, either:

(i) Issue the permit; or

(ii) Deny the application and provide the applicant with an official, written explanation of the department's reasons for the denial.

(B) If the department does not comply with the requirements of subdivision (a)(2)(A) within thirty (30) days of receipt of a complete

application, the application is deemed approved by operation of law and the department shall issue the permit.

(C) The time limits established by this subdivision (a)(2) do not apply to permits and approvals issued under:

(i) The Tennessee Solid Waste Disposal Act, compiled in title 68, chapter 211, part 1;

(ii) The Solid Waste Management Act of 1991, compiled in title 68, chapter 211, part 8;

(iii) The Tennessee Hazardous Waste Management Act of 1977, compiled in title 68, chapter 212, part 1;

(iv) The Hazardous Waste Management Act of 1983, compiled in title 68, chapter 212, part 2; and

(v) The Sanitary Landfill Areas Act, compiled in title 68, chapter 213.

(b)

(1) The commissioner shall prepare semiannual permitting efficiency reports that include statistics on whether the department has timely acted on permit applications pursuant to the department's rules and this section. The reports are due February 1 and August 1 of each year beginning in 2013.

(2) For permit applications that have not met the time frame required by the department's rules and this section, the report must state the reasons for not meeting the time frame. In stating the reasons for not meeting the time frame, the commissioner shall separately identify delays caused by the responsiveness of the applicant, lack of staff, scientific or technical disagreements, or the level of public engagement.

(3) The report must specify the number of days from initial submission of the application to the day of determination that the application is complete, as well as the number of days from submission of a complete application to the day

that the permit is issued or the application is denied. The report due August 1 of each year must aggregate the data for the year and assess whether changes to the program or system are necessary to achieve the time frame as specified by rule and this section.

(4) The department shall post the report on the department's website and electronically submit the report to the governor and members of the general assembly.

SECTION 2. Tennessee Code Annotated, Section 68-203-103(g)(1), is amended by adding the following at the end of the subdivision:

Section 4-3-506 applies to schedules established pursuant to this subdivision (g)(1).

SECTION 3. Tennessee Code Annotated, Section 68-203-103(g)(3), is amended by deleting the subdivision and substituting the following:

(3) Should the department fail to grant or deny the permit within the time frame established by rule, the application is deemed approved by operation of law and the department shall issue the permit pursuant to § 4-3-506.

SECTION 4. Tennessee Code Annotated, Section 69-3-108(p), is amended by deleting the language "or take action scheduling a public hearing on the application within sixty (60) days" and substituting language "within thirty (30) days", and adding the following at the end of the subsection:

Section 4-3-506 applies to permitting decisions made pursuant to this subsection (p).

SECTION 5. Tennessee Code Annotated, Section 69-3-141(b), is amended by deleting the subdivisions (5) and (6) and substituting the following:

(5) Permit applicants shall have the right to a timely decision on their permit application. The following time limits apply:

(A) Aquatic resource alteration permits (ARAPs) must be issued or denied within thirty (30) days of the date the department determines an application is complete. The thirty-day time limit may be extended by written mutual agreement between the commissioner and the permit applicant;

(B) Applications for the reissuance of national pollutant discharge elimination system (NPDES) permits must be issued or denied within thirty (30) days of the date the department determines an application is complete; and

(C) Applications for new or modified NPDES permits must be issued or denied within thirty (30) days of the date the department determines an application is complete. The thirty-day time limit may be extended by written mutual agreement between the commissioner and the permit applicant;

(6) If the department does not issue a permit or deny an application within the time limits in subdivision (b)(5), the application is deemed approved by operation of law and the department shall issue the permit pursuant to § 4-3-506; and

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.